

**COMMISSION MEETING
THURSDAY, MAY 10, 2007
MINUTES**

Acting Chair Niemi called the meeting to order at 1:30 p.m. at the Heathman Lodge located in Vancouver. She then introduced the following members and staff present:

MEMBERS PRESENT: **COMMISSIONER JANICE NIEMI, Acting Chair**, Seattle
 COMMISSIONER PEGGY ANN BIERBAUM, Quilcene
 COMMISSIONER KEVEN ROJECKI, Tacoma
 SENATOR MARGARITA PRENTICE, Seattle
 SENATOR JEROME DELVIN, Richland

STAFF PRESENT: **RICK DAY**, Director
 MARK HARRIS, Assistant Director – Field Operations
 DAVID TRUJILLO, Assistant Director – Licensing Operations
 AMY HUNTER, Administrator – Communications & Legal
 JERRY ACKERMAN, Assistant Attorney General
 GAIL GRATE, Acting Executive Assistant

1. Agenda Review / Director's Report:

Director Day briefly reviewed the agenda for Thursday and Friday, noting that a short executive session would be needed to discuss pending tribal investigations and litigation. Director Day pointed out that Nickels and Dimes, Item 9 on Friday's agenda, has requested the Commission set their petition over for final action to the July meeting because the petitioner was unable to attend this meeting.

Acting Chair Niemi asked if the Commissioners had any objection; there was none. Request was approved.

a) Agency Conference Update

Director Day went over the PowerPoint he had presented to staff at the Agency Conference, explaining that the conference is a staff conducted event, planned by a volunteer team of staff, not a management-conducted event. Director Day noted various staff and team accomplishments. Director Day reported that over 22,918 criminal history checks have been conducted, with about 11.9% having some form of criminal history; 3,832 fingerprint cards were processed; and 421 applications were withdrawn,

denied, or revoked. Legal cases included a \$70,000 theft, \$67,000 from a manager, \$10,000 from a gambling manager, a bill-switching scam at Pierce, King, and Snohomish Counties, and four bookmaking cases that resulted in the arrest and charges filed on six individuals. Over 122 charges and 4 summary suspensions were processed, with over 73 cases being settled by our legal unit, 14 cases went to hearing, and we had 35 defaults.

The agency also has agents who work in an undercover capacity around the State, circulating in various card rooms and tribal casinos. In one case the suspect was arrested and \$40,000 in assets was seized with \$20,000 ultimately being forfeited. **Senator Prentice** asked if the bookmaking cases occurred in our regular establishments in Seattle. **Director Day** responded they were not in Seattle proper but outside in King County. Many times agents encounter or get tips through their activity in a card room that often leads agents to other places. Our undercover agents are very effective. An article in your agenda packet reports that we assisted Spokane Animal Control with a pit bull fighting ring.

Director Day explained that at the Commission's request our agency initiated an Internet Gambling Task Force, which has become international with Canadian representation. The task force began with 36 members and now includes 67 members and 28 agencies. We have 19 different cooperative cases with federal agencies. At the invitation and request of the Enforcement Group in Norway, one of our agents went to Norway and sat down with 14 different European countries to discuss Internet gambling and what might be done.

Director Day concluded with a quote by Jane Russell, Russell Investment Group: "At the end of each day, concentrate on the happy moments you have had. And if there are none, make them happen."

b) Bingo Gross Receipts Comparison – Calendar Years 2004-2006

Director Day explained that Commissioner Niemi had requested a three-year comparison of gross receipts, and this report was provided to respond to that request. **Director Day** pointed out that numbers 11 and 16 are down in their gross receipts, but there are 5 that had an increase in 2005 and 2006.

c) Staff Presentation – Activity Report Enforcement Update

Assistant Director Trujillo presented a PowerPoint on Activity Report Enforcement Update. The foundation for this report began in June 2005, when the Commission asked staff to review the processes and report the findings related to gambling activity reporting. The Commissioners at the time were tired of seeing the same licensees returning time and again for reporting violations. At the time the Commissioners made that request, we were making changes to the reporting rules and had simplified the report itself. The audited financial statement program for house-banked card rooms and larger nonprofit organizations had also been underway. In June of 2005, we reported on the process and set out some options and recommendations. The reports amounted to about 10,000 a year or 2,500 per quarter, which was about 35% of the agency's administrative

case load. At that meeting in LaConner, staff recommended discontinuing courtesy notifications or letters and recommended issuing a Notice of Violation and Settlement (NOVAS) and increasing fines. Prior to doing that, staff recommended a public awareness or education campaign, which consisted of articles in our Agency Newsletter, postings on our Website, inserts being included with activity report notifications, plus a few phone calls. Assistant Director Trujillo explained that it is still a bit too early to determine if the revised program is having the desired effect of not seeing the same offenders over and over again. **Commissioner Bierbaum** asked if the new process has saved time. Assistant Director Trujillo affirmed that it has.

d) Legislative Update

Amy Hunter, Legislative Liaison, provided an update on some of the accomplishments during the legislative session. The Legislative Team consists of Director Day, Deputy Director Sharon Reese, Assistant Director Mark Harris, two staff attorneys Melinda Froud and Arlene Dennistoun, Human Resources Administrator Phyllis Halliday, and Business Operations Administrator Terry Westhoff, plus Gail Grate and Carol Kell provided administrative assistance. We had 10 meetings with Legislators during session, in addition to 20 meetings during the interim. We tracked 17 gambling-related bills, four which passed, and about 50 general government bills that have direct impact on law enforcement agencies. Twelve fiscal notes were prepared with the Commission's input and three position statements were prepared. We attended 41 legislative hearings and testified on 20 bills. Since the last meeting, Commissioner Rojecki has been confirmed. Ms. Hunter thanked Senator Prentice who made the motion and got that confirmation.

The Powers and Duties bill was signed by the Governor and will be effective July 22, 2007. Ms. Hunter explained that after the July meeting she would no longer be presenting Summary Suspensions to the Commissioners because the Director will then be authorized to sign them. House Bill 1449 passed, which created a public disclosure exemption for financial statements for house banked card room licensees, but to-date that bill had not been signed. HB 1706 removing the sunset clause for the limited waiver of sovereign immunity was signed by the Governor and will be effective July 22. The bill dealing with state employee raffles was passed after being amended so that it only applies to executive branch employees; it does not apply to legislative employees or employees who work for the judicial branch. The House concurred with the amendments and the bill was delivered to the Governor and to-date has not been signed. The zoning bill died. Ms. Hunter thanked the Commissioners for their time, input, and discussion in developing the position statement. At the August meeting, we will reaffirm our legislative agenda for the 2008 session.

Director Day thanked Senator Prentice for her support of the Commission in the budget process. Director Day explained that the Commission's budget does not go into the appropriation bill, but the budget notes and the executive budget report can have an impact when it comes to the Office of Financial Management (OFM). Four years ago there was a reduction in FTEs that were put in the budget and, although the Commission argued this was not in the laws, the Office of Financial Management was supporting that

the reduced level of FTEs needed to be enforced. The similar problem emerged this session. Director Day's understanding was that the initial agency allotment for FTEs was reduced by seven FTEs. The good thing about this whole process is that OFM and the Governor's office was with us in straightening this out. With Senator Prentice's help on the Senate side, we were able to get that removed so the budget reflected the Commission's budget that you voted for in August, plus state-wide addition.

e) **Correspondence**

Director Day explained that Ms. Shirley Corbett requested he read her letter of resignation into the record, which he did, adding that Ms. Corbett had given excellent service to the Commission and to the agency overall. Commissioner Ellis' reappointment letter is also included in the agenda packet, and a thank you letter from the Recreational Gaming Association for your support of Substitute House Bill 1449 dealing with the public disclosure of audited financial statements. A letter from Mr. Hough expressing concerns about the tribal compacts and their impact on fraternal clubs in Washington State and our response letter are also included in the packet.

2. **New Licenses and Tribal Certifications:**

Commissioner Bierbaum made a motion seconded by **Commissioner Rojecki** to approve the list of new licenses, changes, and tribal certifications as listed on pages 1-17. *Vote taken; the motion passed unanimously.*

Acting Chair Niemi called for public comment – there was none.

3. **Defaults:**

Amy Hunter explained that three defaults are for individuals and one is for a commercial business that has closed.

Fay Lee, Card Room Employee, Revocation

Ms. Hunter reported that Fay Lee was a card room employee at the Great American Casino in Kent who took part of a player's winning wager and put it into his tip box. The patron complained, and the surveillance showed that on at least three different occasions Mr. Lee took the player's wager in the amount of about \$150. The card room terminated Mr. Lee, who said he was sorry and would not do it again. Ms. Hunter explained that the Commission had signed an Order of Summary Suspension against Mr. Lee at the March meeting. An agent personally served the Order of Summary Suspension to Mr. Lee, and staff made a courtesy call and left a message reminding Mr. Lee of the date to request a hearing. By failing to respond, Mr. Lee has waived his right to a hearing and staff is requesting a Default Order be entered revoking his card room employee license.

Commissioner Bierbaum made a motion seconded by **Commissioner Rojecki** that the **Commission enter order of default to revoke Fay Lee's card room employee license to conduct authorized gambling activities, as staff presented.** *Vote taken; the motion passed unanimously.*

Dawn Black, Class III Employee, Revocation

Amy Hunter reported that Dawn Black failed to disclose five outstanding arrest warrants in Oklahoma, including a bogus check-writing charge. The Lummi tribe suspended her Class III gaming license. Charges were sent by certified mail, which was signed by another person, and by regular mail, which was not returned to us. Staff left a telephone message for Ms. Black reminding her of the date to request a hearing. Because Ms. Black did not respond, she has waived her right to a hearing and staff requests that a Default Order be entered revoking Ms. Black's Class III certification.

Commissioner Bierbaum made a motion seconded by **Commissioner Rojecki** that the Commission enter order of default revoking Dawn Black's Class III employee certification to conduct authorized gambling activities, as staff presented. *Vote taken; the motion passed unanimously.*

Derek Vanweerdhuizen, Card Room Employee, Revocation

Ms. Hunter reported that Derek Vanweerdhuizen worked as a security guard at the Palace Casino in LaCenter and took an unknown amount of money from unsecured drop boxes. Mr. Vanweerdhuizen is shown on surveillance tapes manipulating the drop boxes, and in one instance the surveillance tape showed Mr. Vanweerdhuizen attempting to pry open one of the drop boxes. Mr. Vanweerdhuizen has been charged with five counts of Third Degree Theft. The charges were sent by certified mail, which was signed by Mr. Vanweerdhuizen, and regular mail. When the legal secretary made the courtesy phone call to Mr. Vanweerdhuizen, he said he was not going to request a hearing because he did not want to work in a casino again. By not responding, Mr. Vanweerdhuizen has waived his right to a hearing and staff is requesting a Default Order be entered revoking his card room employee license.

Commissioner Rojecki made a motion seconded by **Commissioner Bierbaum** that the Commission enter order of default revoking Derek Vanweerdhuizen's card room employee license to conduct authorized gambling activities, as staff presented. *Vote taken; the motion passed unanimously.*

Murdock's, Ferndale, Revocation

Ms. Hunter reported that Murdock's failed to submit its Activity Reports for the third and fourth quarters of 2006. Our agent checked to see if the business was still open and discovered that the entire business had actually been closed. Charges were sent by certified mail, which was signed by the president, and by regular mail. Although Murdock's license has expired, it was active when the director issued the charges, so the Commission does have jurisdiction over the case. By not responding, the licensee has waived its right to a hearing and staff requests a Default Order be entered revoking Murdock's pull-tab license.

Commissioner Bierbaum made a motion seconded by Commissioner Rojecki that the Commission enter order of default revoking Murdock's license to conduct authorized gambling activities, as staff presented. *Vote taken; the motion passed unanimously.*

Ms. Hunter reported there were no Summary Suspensions.

RULES UP FOR DISCUSSION AND POSSIBLE FILING

4. Rules Simplification Project – Punch Boards and Pull-Tabs

New Chapter WAC 230-14. (This chapter won't become effective until 01-01-08)

Beth Heston, Project Manager, reported that Chapter 14, Punch Boards and Pull-tabs, was largely taken from old WAC Chapter 30, which was intertwined with rules for manufacturers and distributors and gambling service suppliers. The majority of the new Chapter 14 covers information for persons operating punch boards and pull-tabs. Several definitions were added to this Chapter on "licensee" and "operator" because many licensees have other people operating the punchboards and pull-tabs. A broad definition was desired to ensure that if the punch boards or pull-tabs were being incorrectly operated, staff would have the latitude to enforce against the person operating the punch boards or pull-tabs. The word "device" was removed from this Chapter to not confuse this term with 'gambling device' as defined in RCW, plus it keeps it consistent with other places in the rules where the word "device" has been removed. A definition of pull-tabs series was added because there was no existing definition for a pull-tab series. Punch board and pull-tab operators are required to ensure no unauthorized person plays or sells punchboards; the word 'buys' was added to this section because there have been experiences where children have been allowed to buy the pull-tabs, which staff wanted to avoid. "Failing to mix pull-tabs may result in a minimum five-day suspension of their license for each series not mixed" was removed because it specified a certain penalty, which staff felt limited agents' enforcement abilities, and "mixing" was covered in other chapters. Staff also recommended removing the language about the director initiating action for a violation of RCW 9.46.190 regarding defrauding the public because it is covered in RCW.

Ms. Heston explained that Seal cards are a type of pull-tab where players place their names on a card and after a certain period of time the winners are notified of what prize they have scratched off/won. The old language didn't say the prize had to be awarded; it just said the operator should try for 14 days and then decide what to do. To ensure the prize was awarded to someone, language was added stating that the operator **must** select a second winner. The requirement that operators record the winner's full name, address, and social security number for jackpot prizes \$600 or greater was removed because staff no longer enforces federal regulations or requirements on operators and licensees, and because there was the concern of identity theft because the location where the records are kept is not always secure. The prohibition against winners cashing their checks in the licensed premises was removed. A definition of "bonus pull-tabs series" was added because it hadn't been defined before. The current rule warns charitable and nonprofit licensees of their responsibility under the first section of RCW 9.46.010 to conduct

gambling for “the raising of funds for the promotion of” their organization. The reference to the RCW was removed because it is redundant. To ensure licensees are able to meet the requirement, the proposed language would read “providing charitable or nonprofit licensees with formulas with which to calculate their compliance.”

Acting Chair Niemi asked if there were any questions; there was none. Acting Chair Niemi asked if any Commissioner objected to filing Chapter WAC 230-14 as a group. **Assistant Attorney General Jerry Ackerman** suggested that, as a matter of process, Acting Chair Niemi ascertain whether either of the other Commissioners had a rule or rules they would like to pull out for a separate vote; if not, then the Chapter could be voted on as a group. **Acting Chair Niemi** asked if there were any questions or requests to pull out individual rules; there was none, so the entire Chapter 230-14 was put forward for filing, with an effective date of January 1, 2008.

Commissioner Bierbaum made a motion seconded by **Commissioner Rojecki** to accept for filing and further discussion the Rules Simplification Project, Chapter 230-14 – Punch Board and Pull-Tabs, as presented by staff, effective January 1, 2008. *Vote taken; the motion passed unanimously.*

Commissioner Niemi called for a break at 3:10 p.m. and reconvened the meeting at 3:25 p.m.

5. Destruction and Disposal of Card Room Gambling Chips

New Section WAC 230-40-817.

Assistant Director Mark Harris explained that card room licensees are currently required to submit internal controls outlining how they will dispose of logo chips. Staff is proposing this rule to clarify the requirements for destruction of obsolete, damaged, and worn logo chips. The new rule expands and codifies the requirement to maintain control over logo chips if that card room goes out of business or changes its logo. The new rule will require a chip destruction log which will list the method of chip destruction and designate the departments to do the destruction, which must include the Accounting Department and a licensed employee. The other will remain open to the department of the licensee’s choosing. Procedures will be required to be followed if the licensee’s chip inventory becomes obsolete or the licensee goes out of business, changes the logo, or its license is revoked or voluntarily surrendered. The rules currently state in very general terms that the accounting records must be maintained to identify the purchase, receipt, and destruction of logo gambling chips. To ensure accurate accountability of logo chips, more detailed procedures than the licensee’s internal controls has been required. Additional requirements will decrease the potential for fraud, theft, and counterfeiting of logo chips, and will strengthen our regulatory program by reducing the opportunity for fraud. It will currently parallel current industry practices. There is a copy in the agenda packet of the rules for New Jersey and Nevada who have similar requirements relating to chip destruction.

Assistant Director Harris explained that the Commission has three options with petitions: to file, deny and state reasons, or file alternatives. Staff recommends filing the petition for further discussion.

Acting Chair Niemi asked if any of the Commissioners or Ex-Officios had any questions. **Commissioner Bierbaum** mentioned that some time ago there was a gentleman who came before the Commission regarding chips, and asked how that relates to this proposal. **Assistant Director Harris** replied that he was not here at that time, but this current proposal would help strengthen the current requirements. The current rule is very general on the requirements for how to destroy chips, which was not considered when the original rule was written. The problem has been addressed by requiring additional controls in the licensee's internal controls, but is not specifically required in the WAC rule. **Acting Chair Niemi** recalled from a prior hearing that there was someone who very strongly wanted to be able to deal with these chips, and thought there may be some testimony regarding this topic from some of them today. **Acting Chair Niemi** called for public comment.

Chris Kealy, Iron Horse Casino in Auburn/Everett, testified that the gentleman referred to was Don Logerwell, an attorney from Seattle, who is a chip collector. Mr. Waterwell had brought forward the idea for people to have the ability to sell obsolete chips. This argument was interminable as we were talking about this in a work-study session that we spent about 18 months on, starting a little over two years ago, and basically came to a conclusion last August or September in Spokane. Mr. Kealy explained that he had taken over several casinos, helped close some, helped some go through bankruptcy. With his licensed service provider situation, Mr. Kealy transacts in these chips frequently. It is the first thing Mr. Kealy wants to secure when the facility is closed down, because the chips have value if someone wants to reopen the facility. If a facility and logo is terminated, then it is just a gaming chip that can be sold to be used. A person can buy chips on the Internet; there is a desire in the marketplace to have casino chips. Mr. Kealy stated that this rule would require disposing about \$100,000 worth of assets he has accumulated over the past nine years that have just been stored because it is not legal for him to sell them. Mr. Kealy added that because he was not required to destroy them, he had not done so yet. One gentleman in Nevada has been trying to buy them from Mr. Kealy, because they are legal to sell there. Mr. Kealy pointed out that the Commission said he could sell back to a distributor; he could sell the chips to the man in Nevada who could then turn around and sell them. He can do that out of state, but it is not allowed in Washington State. Mr. Kealy thought this was where this rule was headed, that it will start being a requirement that the day we close a casino there must be a resolution on the chips, which means immediately we would be throwing \$20,000 to \$50,000 into a grinder, then someone is going to open in that location and need chips. Mr. Kealy did not think this was looking good the way it is, but said if the Commission wants to file it, we'll spend another 18 months on the chips.

Director Day agreed with Mr. Kealy that there has been a long history of discussion on this topic. At a previous meeting, Deputy Director Reese had brought a collection of

chips that players had attempted to pass through some of the casinos. Staff confirmed that industry standards around the country required destruction or defacing chips; or a licensed manufacturer who is authorized to sell chips at the wholesale level could buy back the chips, and then under their license could re-convey them somewhere else. Our rules were not clear, so this rule clarifies the expectations and leaves the methodology with the licensees.

Acting Chair Niemi asked if there was anything in the rule about where the chips can be resold. **Director Day** responded that licensees could not resell their chips themselves, but could sell them to a licensed manufacturer. **Commissioner Keven Rojecki** asked if that language was in a separate WAC. **Director Day** responded that it was in paragraph three of this rule. **Director Day** thought the debate was over whether it was something that should be controlled or not; regulatory staff would say yes. The chip manufacturers or those in possession of these chips would like to access that market. **Acting Chair Niemi** asked if there was anyone who wanted to comment on this. **Senator Jerome Delvin** noted that New Jersey's WAC indicates the licensees have to give a procedure for destroying the chips but doesn't say under what circumstances the licensee has to destroy those chips. **Assistant Director Harris** recalled the language wasn't specifically spelled out in New Jersey's WAC.

Commissioner Bierbaum made a motion seconded by **Commissioner Rojecki** to accept for filing and further discussion new section WAC 230-40-817, related to the destruction and disposal of gambling chips, as presented by staff. *Vote taken; the motion passed unanimously.*

6. **Coin/Token Toss Amusement Game Target Areas**

Amendatory Section WAC 230-20-508 and Amendatory Section WAC 230-20-650.

Assistant Director Harris explained that the proposed change would clarify the size of target areas used for coin or token toss amusement games, which are primarily operated at carnivals and agricultural fairs. The original intent of the rule was to have the target area twice as big as the object that was being thrown at it. In the agenda packet is a picture of a game that shows a rainbow. The original rule intended the target to be a square four inches so the object would fit into it. What agents eventually found was that on this rainbow-type game, the stripe would be an inch thick but four or five inches long; technically still four square inches, but the object would barely fit between the lines. On this type of game, the requirement would be if it had four square inches, the requirement would be for the quarter to fit entirely into that area; if it was less than four square inches, the requirement would be for only part of the quarter to be in the area. Technically they were within the requirement of the rule. Staff requests the rule be changed to clarify that requirement. When staff talked to the two carnival operators and explained the intent of the rule, the carnival operators removed the rainbow game from play. Staff still believes the rule needs to be clarified in case down the road something similar should arise.

Acting Chair Niemi asked if there were any questions; there were none.

Commissioner Bierbaum made a motion seconded by **Commissioner Rojecki** to accept for filing and further discussion amendatory sections WAC 230-20-508 sub 2 and WAC 230-20-650 sub 3, as presented by staff. *Vote taken; the motion passed unanimously.*

7. **Other Business/General Discussion/Comments from the Public:**
Acting Chair Niemi called for public comments. There was none.

At 3:40 p.m., **Acting Chair Niemi** called for an executive session to discuss pending investigations, tribal negotiations, and litigation. She called the meeting back to order at 4:20 p.m. and immediately adjourned the meeting.

**COMMISSION MEETING MINUTES
FRIDAY, MAY 11, 2007
DRAFT MINUTES**

Acting Chair Niemi called the meeting to order at 9:35 a.m. at the Heathman Lodge located in Vancouver, and introduced the attendees present:

MEMBERS PRESENT: **COMMISSIONER JANICE NIEMI, Vice Chair**, Seattle
 COMMISSIONER PEGGY ANN BIERBAUM, Quilcene
 COMMISSIONER KEVEN ROJECKI, Tacoma
 SENATOR MARGARITA PRENTICE, Seattle

STAFF PRESENT: **RICK DAY**, Director
 MARK HARRIS, Assistant Director – Field Operations
 DAVID TRUJILLO, Assistant Director – Licensing Operations
 AMY HUNTER, Administrator – Communications & Legal
 JERRY ACKERMAN, Assistant Attorney General
 GAIL GRATE, Acting Executive Assistant

8. Approval of Minutes:

Commissioner Bierbaum made a motion seconded by **Commissioner Rojecki** to approve the minutes of the regular meeting of April 12-13, 2007, as presented. *Vote taken; the motion passed unanimously*

RULES UP FOR FINAL ACTION

- 9. Petition for Rule Change from Nickels and Dimes, Inc. – Amusement Game Wagers**
Acting Chair Niemi noted that this petition had been requested and approved to be held over to the July meeting because the petitioner wanted to be present. This will be addressed at the July meeting.

RULES UP FOR DISCUSSION AND POSSIBLE FILING

- 10. Petition for Rule Change from Tacoma AmVets - Recording \$20 bingo winners**
Amendatory Section WAC 230-20-102.
Assistant Director Harris reported that the petitioner is requesting that bingo licensees no longer be required to record addresses of winners for cash and merchandise bingo prizes of \$20 or less. The proposed change would give licensees the option to record

winners of prizes under \$20 on a prize receipt log rather than on a separate prize receipt. The current rule requires that prize receipts, with the exception for merchandise prizes of a cost or fair market value of \$15 or less, be receipted on a log. The petitioner states the change would allow bingo operators to more quickly issue prize receipts for speed bingo and make bingo recording requirements more consistent with current pull-tab requirements. Staff recommends filing the petition for further discussion. The petitioner has requested the change become effective 31 days from filing, but to be consistent with WAC 230-12-005, staff recommends an effective date of January 1, 2008.

Acting Chair Niemi asked if there were any questions of Assistant Director Harris. There were none. She then called on the petitioner.

Ronnie Strong, Bingo Manager at AmVets Post #1 in Tacoma, indicated he was available to answer any questions. He explained that his organization has a speed bingo session after their regular session, which is only three numbers. The organization would still use the receipting method, but would just have the winner's name on it; anything over \$20 would include the address.

Commissioner Rojecki made a motion seconded by **Commissioner Bierbaum** to accept for filing and further discussion amendatory section WAC 230-20-102, as presented by staff. *Vote taken; the motion passed unanimously.*

11. Petition for Rule Change from Seattle Jr. Hockey Association – Electronic Bingo Card Daubers

Amendatory Section WAC 230-20-244.

Assistant Director Harris explained that this petition was actually from the Washington Charitable and Civic Gaming Association. The Commission has viewed electronic bingo daubers and their electronic cards as player-assistant devices and not bingo cards. The petitioner is requesting that printed bingo card faces no longer be issued to players unless requested. Operators would keep a printed card master index onsite and available for inspection if needed. Currently, printed bingo card faces must be given to players that use the electronic bingo card daubers, which are electronic bingo card faces stored on the daubers, and players can purchase up to 66 card faces per single bingo game. The proposed amendment will pose little or no impact on our regulatory program, but the Commission should consider whether the proposal is consistent with the legislative intent of RCW 946.0205 and conforms with the definition of bingo. The petitioner has requested the change become effective 31 days from filing; however, staff recommends to be consistent with WAC 230-12-050 that the effective date be January 31, 2008.

Acting Chair Niemi asked if there were any questions or comments.

Ric Newgard, Executive Director of the Seattle Junior Hockey Association and the Washington Charitable and Civic Gaming Association, testified that he submitted the proposed rule change for several reasons. He provided a device called Travelers made by Game Tech International for the Commissioners to look at, explaining that the customers

play bingo on the screens by entering the numbers and the machine daubs the cards. Mr. Newgard explained that his bingo hall has about 280 types of machines from three different manufacturers, noting their dilemma was that a paper player gets a different piece of paper or card for each game, but the machines use the same cards for every game, which is not very appealing to some of the customers. Technology is able to rotate the cards within that machine for every game; technology can track which cards are on which machine. Mr. Newgard said he was asking to be allowed to keep a master log on the premises instead of all the paper receipts and requested the Commissioners support.

Acting Chair Niemi asked if everyone gets one of these machines, whether they were handed out to the customers and if they pay for them. **Mr. Newgard** affirmed, explaining that the players pay at the cash register just like players who buy the paper cards. The player elects to play a machine and pays based on how many cards they want in the machine. If the customer asks for 66 cards, the cashier pushes a button on the computer, loads the 66 faces into the machine, and the customer walks away and prepares to play bingo. **Acting Chair Niemi** asked how much the machines cost. **Mr. Newgard** replied that his organization doesn't purchase the machines, they pay by the week to rent them. **Acting Chair Niemi** asked how much it costs to rent the ones he uses. **Mr. Newgard** noted that Jeremy from Game Tech was present and would be better able to answer that type of question. **Senator Prentice** asked whether these machines were similar to the Class II machines the tribes are using; the same philosophy.

Jeremy Schwenk, Game Tech International explained that his company leases the machines to the bingo halls. One pricing option is by the week, where a bingo hall can lease the machine for the week and pay a fixed price of about \$20 per unit and the bingo hall gets to use the machine as frequently as it wants during that week. Seattle Junior Hockey has about 120 of these machines. **Acting Chair Niemi** asked if that would be \$20 a week per machine. **Mr. Schwenk** affirmed, adding that some halls choose to use a 'per use' configuration where they only pay for the machine if they use it. The price depends on the machine and can range from \$1 to about \$3 per use, which is the general pricing structure. **Acting Chair Niemi** asked whether that option amounted to more money. **Mr. Schwenk** agreed that it does amount to quite a bit of money. **Acting Chair Niemi** asked whether he anticipated being able to regain that with the number of people that use them. **Mr. Schwenk** responded that the hall hopes to regain that cost. **Mr. Newgard** explained that the machines actually more than pay for themselves. A customer playing with paper cards can only daub so many cards so fast. When a machine is used, the customer can purchase more cards and spend more money. The spend-per-person is much greater on that machine than the paper player, which more than offsets the bingo hall's costs. Also, the machines are extremely popular; on a Friday night Mr. Newgard will put out 270 machines when there are about 350 people. The majority of the customers are playing that type of technology.

Director Day referred back to Senator Prentice's question about these machines being similar to Class II tribal machines, and explained that federal law makes reference to electronic aids to bingo. That is the introduction to the current machines the tribes have;

these are stand-alone machines as such, and some have gone so far as to have the bingo card up in the right-hand corner. This eliminates or goes one step further toward that concept because it now eliminates the bingo card entirely. Staff wanted to point out that concept for the Commissioners consideration as you move forward whether this still aligns with the definition and statute. **Senator Prentice** was concerned because some things are not obvious, for instance if there is electronic poker, you have edged into slot machines. Senator Prentice hoped that as the Commission proceeded, they would do so very carefully. **Acting Chair Niemi** asked Assistant Attorney General Jerry Ackerman if he had anything to say about this item as related to the statute. **AAG Ackerman** replied that when he looked back at the legislative history in preparation for this meeting he could not find anything in the 1973 history that indicated the legislature attempted to more clearly define bingo than was already in the statute. The statute basically says bingo is a game where prizes are awarded on the basis of designated numbers or symbols on a card, conforming to numbers or symbols selected at random, and at which no cards are sold except at the time and place of said game. AAG Ackerman explained that he looked up the definition of “card” in Webster’s Dictionary because it was not defined anywhere in the statute or the legislative history. Webster’s definition states that a card is normally a rectangular piece of stiff paper or cardboard. Senator Prentice and Director Day are both correct to the extent that the paper becomes irrelevant to the game. Then you do take a step toward the electronic bingo games, which look like what tribes are currently offer as their Class II games. AAG Ackerman said he understood that in this proposal, Mr. Newgard is not proposing to totally eliminate the card; the card would be in a binder or some other receptacle somewhere on the premises. It appears to do away with the need for a player to have a card on their person, as the statute seems to contemplate. AAG Ackerman thought the Commission should consider if the next step is a box that looks like a slot machine, which are in rows, and people simply purchase entrée to those boxes much as the tribes allow with their Class II machines. AAG Ackerman was not sure if that was where this is headed, but thought the Commission had to contemplate what the next step would be if you decide to do away with the requirement to have the cards that the statute refers to.

Commissioner Bierbaum asked how the machine worked. **Mr. Newgard** explained that the player enters the number called and hits enter, then the machine marks all the cards loaded in the machine. The player has to be interactive with the machine, the machine cannot operate alone; it is not a stand-alone unit. The intent of this proposal was not a jump from electronic daubers to slot machines. **Senator Prentice** reminded that some things are not obvious. **Mr. Newgard** agreed, explaining that since the Commission had allowed Digideal, which is a deck of cards that really is not a deck of cards because it is digital, the industry thought this would be a natural segue. Mr. Newgard stated they were just trying to cut the paper waste and staff labor; the cards are physically on the premises and can be touched and reviewed at any time. **Acting Chair Niemi** asked whether a person would operate more than one machine. **Mr. Newgard** responded that each customer only plays one machine. **Commissioner Rojecki** clarified that the only thing the petitioner was attempting to do with this rule change was to alleviate paperwork. **Mr. Newgard** affirmed. **Acting Chair Niemi** added that Mr. Newgard had said there was

another purpose – people can play a lot more games at once and faster, which would definitely increase his income beyond the price of the machine. **Commissioner Rojecki** said that the point was that customers were already using the machines. **Director Day** said that as a matter of practice, a customer purchases the bingo dauber and 66 cards, which are loaded into the machine. Does the customer have to stay with those 66 for the entire session? **Mr. Newgard** answered that, at this point, the player has to stay with those 66 cards for the entire session. The customers would like the opportunity for those cards to rotate every game; they would get 66 new cards for every game. In order to print the cards, the receipt would be 41 feet long, so it is not currently practical to provide new cards for every game. **Senator Prentice** said that if the statute refers to cards, she would be reluctant to just go ahead and make this move without the legislature looking at it. She would feel more comfortable if the appropriate committee looked at the proposal since it refers to a card. **Mr. Newgard** replied that the RCW says “card” but does not define the card as being paper or cardboard or being on a TV screen. **Senator Prentice** noted that she had been listening to electronic dauber talk since she first got on the Commission.

Acting Chair Niemi felt it was reasonable for the legislature to look at this change, adding it seemed it was being pushed to almost humorous extremes by saying any one can look at the card on the premises. Acting Chair Niemi was not sure the card was the big problem here; the Commission is always being accused of expanding gambling. The main thing the legislature should do is decide whether they believe this is that kind of expansion because there is going to be a lot more money coming into the bingo games. **Senator Prentice** affirmed that the Commissioners have to be careful they are following the law – the rest is irrelevant. **Commissioner Rojecki** asked whether if this was filed for further discussion it would be discussed in more detail to figure out intent, possibly by committee hearings, some of the legislative record, or other ways to alleviate concerns. **AAG Ackerman** did not think he would find anything more in the legislative history. It makes sense there isn’t more because we are talking about a statute that came in during 1973. The legislators looked at the game of bingo as it was played in 1973, and it was self-evident what the game of bingo was. The legislators had not anticipated the technological advances that have taken place in the decades since then. **AAG Ackerman** did not think this was going to be helpful, but agreed to look further to see if there was anything he missed. Presumably where the legislature did not define a word, the place to look would be a dictionary for the common usage. **Commissioner Rojecki** said he was thinking of discussions past Gambling Commission members had around the electronic daubers when they were approved. **AAG Ackerman** pointed out that those may be more helpful in a policy sense rather than a legal sense. In the end the Commissioners are going to be left with some interpretation that they are going to have to make. **Senator Prentice** said she would bring the issue to the attention of the appropriate chairs during Committee Days during the interim. Then the Commission can make its pitch about updating the game because the Legislature had not looked at it since 1973. **Acting Chair Niemi** thought that made sense, because a card was one thing in 1973 and is now totally different. Possibly, and in her opinion probably, the Legislature and not the Commission should either expand on the meaning of “card” or say “card” and include electronic

devices. Acting Chair Niemi did not think the Commission was the appropriate body to change the definition.

Director Day asked AAG Ackerman to touch on the definition of pull-tabs, which is defined differently in the RCW and might be relevant. **AAG Ackerman** explained that definition of pull-tabs in the RCW says pull-tabs as that game is understood in 1973 or as is later redefined by the Commission. The Legislature gave the Commission the latitude to change the definition of a pull-tab, understanding that the way the game was played may evolve over time and the Commission may wish to allow something other than the pull-tab game that was in effect in 1973. The Legislature did not do that with bingo, which is the point that Director Day was making. **Acting Chair Niemi** thought that was a good point and asked how this should be handled - either file it now for discussion or request that **Mr. Newgard** take it to an interim meeting in the Legislature for discussion. **Senator Prentice** suggested bringing daubers. **Acting Chair Niemi** said a decision had to be made today whether to file this, or not file it at this time and have Mr. Newgard come back at a later time. **Commissioner Bierbaum** thought Mr. Newgard was not asking that the requirement of the card be eliminated, the request was to not have to print the cards out during every game; he would still have the cards on the premises. Commissioner Bierbaum felt that this discussion should have happened when electronic daubers were approved, but we didn't have that discussion. If the request was to do away with paper cards all together, that would provoke a big discussion. All Mr. Newgard is asking now is to not have to pass these cards out, which does not seem like a big deal and certainly not something that would evoke or provoke legislative action. **Mr. Newgard** agreed he was not asking to eliminate the cards completely; the cards would be printed and on the premises where anyone could look at them.

Commissioner Bierbaum made a motion seconded by **Commissioner Rojecki** to accept for filing and further discussion amendatory section WAC 230-20-244, as presented by staff. *Vote taken; the motion passed unanimously.*

Director Day asked about the timeline on this. **Acting Chair Niemi** responded that the Commission could extend it as long as needed. **Director Day** asked if it should be put on the agenda for discussion in July to allow one more public discussion. **Acting Chair Niemi** agreed. **Director Day** pointed out that would mean potential final action in August. **Commissioner Bierbaum** asked whether the Commissioners could extend it far enough out so that Commissioner Ellis was back; because he is missing this meeting and will also miss July's meeting. **Acting Chair Niemi** suggested having it on the August meeting agenda. **Director Day** affirmed staff would ensure it was on both the July and August agendas. **AAG Ackerman** asked whether it was the Commissioners' intent to have staff pull prior Commission meeting minutes that discussed electronic daubers and provide that information at the next meeting. **Acting Chair Niemi** agreed that was a good suggestion. **Commissioner Rojecki** asked for clarification on whether this would come up again in July or August. **AAG Ackerman** responded both July and August. **Acting Chair Niemi** said that August would be for discussion, not final action.

12. **Petition for Rule Change from Seattle Jr. Hockey Association, Increasing carry-over jackpot prize limits and ticket count**

Amendatory Section WAC 230-30-045

Assistant Director Trujillo noted that the petitioner is actually Washington Charitable and Civic Gaming Association. The petitioner is requesting that Section 2(d) of WAC 230-30-045 be changed to increase the cap for accumulated carry-over jackpots from \$2,000 to \$5,000. Carry-over jackpot pull-tab series are games where prizes pass to another pull-tab game within the series if the prize is not won. Licensees must carry over accumulated jackpots to another game in the series until the jackpot is won. At the present time an accumulated carry-over jackpot cannot exceed \$2,000. In his letter, Ric Newgard, representative of Washington Charitable and Civic Gaming Association, asks the Commission to consider the change because the games are popular and the security of jackpots has not been an issue. Staff anticipates only minimal impact and recommends filing for further discussion. Mr. Newgard is prepared to come forward and answer any questions about carry-over jackpot games. **Commissioner Bierbaum** noted she had never played pull-tabs, and asked how there could be any carry-over because she thought all of the pull-tabs were pulled. Assistant Director Trujillo responded that, generally speaking, they are, but in addition to regular pull-tabs, there are now progressive pull-tabs and carry-over jackpot pull-tabs. This petition specifically refers to carry-over jackpot prizes.

Ric Newgard, Washington Charitable and Civic Gaming Association, explained that carry-over pull-tabs have been around for about ten years, and have been very popular with customers. Mr. Newgard demonstrated a carry-over jackpot pull-tab flare, pointing out there is a written amount. Mr. Newgard explained that as the customers play the pull-tab and get a pull-tab that says jackpot, there are ten spots where the player can rub off one of those spots like on a lottery ticket. Once the player rubs off the spot, it will either show jackpot or \$75. If it says \$75, the player is paid \$75 and the jackpot is no longer available. This flare is taken down and a new set comes up that says \$75. It grows by the corresponding large jackpot, and is kind of a secondary chance for the customer. We have been doing it for ten years and \$2,000 has been the top prize, but we have had numerous requests by customers to grow it larger. What we are requesting is a larger tab count and to allow the jackpot to grow to \$5,000. Mr. Newgard thought all of the win codes were in place and security was excellent.

Acting Chair Niemi asked if there were any questions. **Commissioner Rojecki** asked how often a game would go to \$2,000. **Mr. Newgard** replied that it happened all the time; that it goes to \$2,000 quite quickly because it gets quite a bit of play. **Acting Chair Niemi** asked if the \$75 prize would be raised. **Mr. Newgard** responded that their game would probably go to \$100 or \$150, a larger immediate win and a larger growth.

Acting Chair Niemi called for further public comment.

Gary Murrey, Great American Gaming Association, testified that he fully supported the petition; it has been ten years since the prize level has gone up. The interesting part about

the cap is that once the prize fund reaches the cap, the operator benefits from each \$75. At the beginning it goes to the next prize and grows, but once the game caps at \$2,000, instead of growing, the money goes into the operator's pocket, not the player's. Mr. Murrey wondered why it was ever capped in the beginning; he did not see any reason for a cap. If the prize grows to \$6,000 or \$7,000, that is all the better for the players; it is their money that they have been putting in and they should have an opportunity to get that money if they hit the jackpot. Eventually all of that money, all of that growth, should go back to the players. Mr. Murrey did not think there should be any cap.

Acting Chair Niemi asked if there were any questions. **Commissioner Rojecki** asked whether that \$2,000 cap had been there for quite a while, or was it raised at one time. **Director Day** responded that Ms. Hunter, who had direct knowledge of the topic, thought that when the \$2,000 cap was put in place, it was because carry-over jackpot pull-tabs was a new game and the idea was to put on a limit to see how the game performed.

Commissioner Rojecki made a motion seconded by **Commissioner Bierbaum** to accept for filing and further discussion amendatory section WAC 230-30-045, as presented by staff. *Vote taken; the motion passed unanimously.*

13. Petition for Rule Change from Seattle Jr. Hockey Association – Increasing pull-tab prize limits and ticket count,

Amended Section WAC 230-30-080

Assistant Director Trujillo noted this petition was actually from the Washington Charitable and Civic Gaming Association. Mr. Trujillo reported that the petitioner is asking for an increase of the maximum prize limit for all pull-tabs to \$2,500. Presently the rule allows for 50¢ pull-tabs to have a maximum prize of \$500 and \$1 pull-tabs to have a prize of \$750. In 1999 the maximum prize was increased to \$750, which was about two years after the RCW was changed increasing the cost of pull-tabs from 50¢ to \$1. The petitioner is also asking for an increase in the maximum number of individual pull-tabs in a series to 25,000. In 1995 the number of pull-tabs was increased from 6,000 to 10,000. Staff requests amending sections 1(a) and 2(b) as shown in the proposed rule so that prize limits for merchandise prizes are incorporated and are consistent with the changes proposed for cash prizes. Staff contacted some other states to see what they allow: Ohio has no limits on the maximum number of pull-tabs or the maximum number of prize limits; Alaska has no limits on the number of individual pull-tabs but does have a \$500 maximum prize; Minnesota has a maximum number of individual pull-tabs per game of 10,000 and the maximum prize allowed is \$599; and Nebraska has a maximum number of individual pull-tabs per game of 6,000 and the maximum prize is \$1,000. Generally speaking, the highest prizes are usually \$599, so players are not required to complete the tax forms. Staff anticipates these changes will increase staff time spent conducting compliance inspections, verifying records, quality control investigations, and investigating complaints. One policy consideration would be that although progressive pull-tab series can have up to 50,000 pull-tabs, they have additional rules for these games, such as the tabs must be dispensed through a pull-tab dispensing device, there are longer retention requirements, and an owner or licensed manager must be on the premises

at all times when the games are operated. Staff recommends filing for further discussion. The petitioner requests the change become effective 31 days from filing; however, staff recommends an effective date of January 1, 2008.

Commissioner Bierbaum commented that it was unfortunate this was not done in conjunction with the fee rules. When an agent audits the pull-tabs, do they have to sit there and open the pull tabs? It is going to take an agent two and a half more times to open these pull-tabs to check them. It seems that if a pull-tab operator wants to have one of the larger games, the operator should pay more for the license because it is going to cost more to regulate them. Commissioner Bierbaum said she would accept it for filing, but probably would not vote in favor of it unless there was some concomitant increase in fee associated with this game.

Ric Newgard, Washington Charitable and Civic Gaming Association explained that the reason this was really brought forward is that when I go to my distributor's warehouse every week to pick out pull-tab sets, I walk through the warehouse and see all of these really cool pull-tabs. They are in the inventory, sitting on the shelves, but I can't have them. They are already being used in the state and they are very attractive, so my thought was that it would be nice if my organization could also have access to those. Mr. Newgard noted that regarding license fees, his pull-tab license fee is \$15,000 a year and his total license fee is \$29,798 a year. Mr. Newgard pointed out that the progressive pull-tabs are up to 50,000, but the equipment is expensive and it doesn't flow well so nobody really uses them; it is not a practical application as far as the machines are concerned. **Acting Chair Niemi** asked who in the state does use these. **Mr. Newgard** responded that it was bingo operations that the Gambling Commission does not regulate.

Commissioner Bierbaum made a motion seconded by **Commissioner Rojecki** to accept for filing and further discussion amendatory section WAC 230-30-080, as presented by staff. *Vote taken; the motion passed unanimously.*

14. Other Business/General Discussion/Comments from the Public/Adjournment:
Acting Chair Niemi called for public comment.

Chris Kealy, the Iron Horse Casino in Auburn, testified on the pull-tab discussion, noting that for the mathematical end of it Ric Newgard was totally right. The \$15,000 he is paying in license fees is supposed to be the compensation for any of the work necessary. The erosion in the pull-tab industry is actually affecting the Commission; the license fees and the collection of income related to pull-tabs are drastically down for the Commission. This is not a growth in gambling issue at all; this is a salvation of a revenue source for the charities, specifically because it is one of their mainstays that mathematically are going so far backwards. This modernization on pricing and the other things that Mr. Newgard is asking for are ten years old. Some of these pricing elements are so far backward that it is a catch-up item, but the economics won't be a growth at all, it will be a saving of a negative growth.

Acting Chair Niemi asked staff, based on this discussion, to provide the Commission with the figures for the last couple years on pull-tabs and licensing. **Assistant Director Trujillo** asked if they were looking for the figures for the decline in pull-tabs. **Acting Chair Niemi** replied that Mr. Kealy had indicated the income is flagging in, what, across the board pull-tabs or just these pull-tabs. **Assistant Director Trujillo** agreed to provide the Commissioners with some numbers.

Dolores Chiechi, Executive Director of the Recreational Gaming Association, reported that she had received word from the Governor's Office that the Governor will be taking action on Substitute House Bill 1449, which is the public disclosure exemption for house-banked card room audited financial statements.

Acting Chair Niemi called for other discussion, and with no further business the meeting was adjourned at 10:30 a.m.